

AMENDED IN SENATE APRIL 5, 2010
AMENDED IN ASSEMBLY JANUARY 4, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Saldana

February 23, 2009

An act to amend Section 9010 of, to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as amended, Saldana. Commercial fishing: lobster management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. The base permit fee for a lobster permit is \$265.

This bill, commencing April 1, 2011, and until March 31, 2016, would impose, in addition to the permit fee, a supplemental fee of \$300, to be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit supplement revenues in the Lobster Management Enhancement Account, which the bill would create in the Fish and Game Preservation Fund. The bill would require that money in the account be expended by the department, upon appropriation by the Legislature, exclusively to fund specified projects and programs to improve lobster sustainability and management. The bill would create a 5-member Lobster Management Enhancement Advisory Committee *that would meet only once during any calendar*

year to recommend to the department projects and programs and budgets for the expenditure of account moneys, including a plan to prioritize expenditures. *The bill would require the California Lobster and Trap Fishermen's Association to pay the costs associated with providing a venue for committee meetings.* Those lobster management enhancement provisions would be repealed on January 1, 2017.

Existing law prescribes the construction and dimensions of a wire lobster trap.

This bill would revise the prescribed dimensions of wire lobster traps, and would add provisions relating to the use of a wire to hold the escape gap in place.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California's spiny lobster fishery is an important component
4 of California's marine ecosystem, as well as an important source
5 of jobs for California fishermen and fisherwomen and food for
6 consumers.

7 (b) California's commercial and recreational lobster fishermen
8 and fisherwomen, primarily through associations, should participate
9 in the development and implementation of new approaches to
10 managing lobster fishing. Those approaches should be designed
11 to ensure economical and sustainable fishing.

12 (c) California's lobster fishing associations will greatly benefit
13 from an established mechanism that will provide a steady source
14 of funds for projects that promote the long-term sustainability and
15 improved management of the California spiny lobster fishery.

16 (d) *Improving the sustainability of the spiny lobster fishery*
17 *through mechanisms such as development of a fishery management*
18 *plan requires far greater funding resources than the revenue*
19 *generated by this bill. Revenue generated by this bill constitutes*
20 *permittees' contribution to the improvement of the spiny lobster*
21 *fishery, which then must be augmented by additional funding*
22 *resources to improve management of the fishery.*

23 SEC. 2. Section 8254.5 is added to the Fish and Game Code,
24 to read:

1 8254.5. (a) In addition to the fee imposed pursuant to
2 subdivision (c) of Section 8254, commencing April 1, 2011, a
3 person described in subdivision (b) of Section 8254 shall also pay
4 a ~~three hundred dollar (\$300)~~ supplemental fee *of three hundred*
5 *dollars (\$300)*. The supplemental fee shall be known as the Lobster
6 Management Enhancement Supplement. The department shall
7 deposit Lobster Management Enhancement Supplement revenues
8 in the Lobster Management Enhancement Account in the Fish and
9 Game Preservation Fund pursuant to Section 8262.

10 (b) Section 713 does not apply to the Lobster Management
11 Enhancement Supplement.

12 (c) This section shall become inoperative on March 31, 2016,
13 and, as of January 1, 2017, is repealed, unless a later enacted
14 statute, that becomes operative on or before January 1, 2017,
15 deletes or extends the dates on which it becomes inoperative and
16 is repealed.

17 SEC. 3. Article 5.5 (commencing with Section 8260) is added
18 to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code,
19 to read:

20
21 Article 5.5. Lobster Management Enhancement Supplement
22

23 8260. As used in this article:

24 (a) "Account" means the Lobster Management Enhancement
25 Account established in Section 8262.

26 (b) "Committee" means the Lobster Management Enhancement
27 Advisory Committee established pursuant to Section 8263.

28 8262. (a) Lobster Management Enhancement Supplement
29 revenues received by the department pursuant to Section 8254.5,
30 and any interest earned on those revenues, shall be deposited in
31 the Lobster Management Enhancement Account, which is hereby
32 established in the Fish and Game Preservation Fund. The money
33 in the account, upon appropriation by the Legislature, shall be
34 expended by the department exclusively for projects and programs
35 to improve lobster sustainability and management consistent with
36 subdivision (b). The department shall maintain the internal
37 accountability necessary to ensure that expenditure of funds from
38 the account is consistent with the requirements and purposes of
39 this article. The department shall annually provide to the committee

1 a full accounting of expenditures from the account and make that
2 information available to the public.

3 (b) The committee shall develop a plan that prioritizes
4 expenditures on projects and programs that support long-term
5 sustainability or improved management, or both, of the California
6 spiny lobster fishery, consistent with Section 35650 of the Public
7 Resources Code, including, but not limited to, all of the following:

8 (1) Obtaining Marine Stewardship Council sustainability
9 certification.

10 (2) Coordination and collaboration within the fishery to help
11 develop or improve new management approaches that optimize
12 catch per unit effort and create incentives for ecosystem
13 improvement.

14 (3) Repaying loans for lobster fishery management improvement
15 projects.

16 (4) Conducting research leading to informed and strategic
17 management of the fishery.

18 (5) ~~Preparation~~ *Contributing to the preparation* of a lobster
19 fishery management plan.

20 (c) The director shall not fund any project or program pursuant
21 to this article that the director determines to be inconsistent with
22 the priorities identified pursuant to subdivision (b) and with this
23 article.

24 (d) *Nothing in this article, nor any decision of the committee,*
25 *shall be construed to create an obligation on the part of the*
26 *department to engage in a particular scientific, policy, or planning*
27 *effort.*

28 ~~(d)~~

29 (e) Department administrative overhead, collection, or other
30 charges shall not exceed ~~15~~ 20 percent of the ~~annual expenditures~~
31 ~~from the account~~ *amount collected annually in the account.*

32 (f) *In order to reduce department costs, the committee shall*
33 *only meet once during any calendar year.*

34 (g) *The California Lobster and Trap Fishermen's Association*
35 *shall pay the costs associated with providing a venue for committee*
36 *meetings.*

37 8263. (a) The Lobster Management Enhancement Advisory
38 Committee is hereby created, consisting of five members, as
39 follows:

1 (1) One member, with an alternate, who is representative of the
2 state's commercial lobster fishermen and fisherwomen or who is
3 a biological scientist actively involved in lobster research and who
4 is affiliated with a college or university within the state. A member
5 appointed pursuant to this paragraph and his or her alternate shall
6 be appointed by the director from licensed lobster permittees and
7 scientists who have submitted their names for consideration.

8 (2) Three members, each with an alternate, appointed by the
9 membership of the California Lobster and Trap Fishermen's
10 Association. This subdivision does not prohibit persons selected
11 pursuant to paragraph (1) from also being a member of the
12 California Lobster and Trap Fishermen's Association.

13 (3) The director, or his or her designee.

14 (b) Except for a biological scientist member appointed pursuant
15 to paragraph (1) of subdivision (a), the committee members
16 described in paragraphs (1) and (2) of subdivision (a) and their
17 alternates shall hold a valid lobster permit.

18 (c) A vote by the committee is not valid unless all five members
19 or their alternates are present to vote.

20 (d) The committee shall recommend to the department projects
21 and programs consistent with subdivision (b) of Section 8262 and
22 budgets for the expenditure of moneys received pursuant to this
23 article.

24 8264. The department may receive funds for deposit in the
25 account, for purposes of this article, from sources other than the
26 sale of commercial fishing lobster permits, including, but not
27 limited to, grants from the federal government, grants from private
28 foundations, money disbursed from court settlements, and
29 donations and bequests from individuals. Additional funds received
30 pursuant to this section shall not be deposited in the account unless
31 the person or entity providing the funds specifically designates in
32 writing, prior to or at the time of transmittal of the funds to the
33 department, that the funds are intended solely for deposit to that
34 account.

35 8265. This article shall remain in effect only until January 1,
36 2017, and as of that date is repealed, unless a later enacted statute,
37 that is enacted before January 1, 2017, deletes or extends that date.

38 SEC. 4. Section 9010 of the Fish and Game Code is amended
39 to read:

1 9010. (a) Subject to Article 5 (commencing with Section 8250)
2 of Chapter 2, spiny lobster may be taken with lobster traps under
3 a lobster permit issued pursuant to Section 8254.

4 (b) Notwithstanding Sections 8660 and 8665, lobster traps may
5 be used in any area of the state not otherwise closed to the taking
6 of lobsters up to, but not closer than, 75 feet of any private pier,
7 wharf, jetty, breakwater, or dock.

8 (c) A wire lobster trap shall be built of rectangular wire mesh
9 with inside mesh measurement not less than $1\frac{1}{2}$ inches by $3\frac{1}{2}$
10 inches, the $3\frac{1}{2}$ -inch measurement to be parallel to the floor of the
11 trap. A wire lobster trap shall be fitted with at least one rigid
12 rectangular escape gap with an inside vertical measurement not
13 less than $2\frac{3}{8}$ inches at all points and an inside horizontal
14 measurement of not less than $11\frac{1}{2}$ inches at all points. The
15 horizontal sides of the escape gap shall be located parallel to, and
16 the escape gap within $2\frac{3}{8}$ inches of the floor on any outside wall
17 of, the rearmost chamber of the lobster trap and shall be clearly
18 accessible to the lobsters.

19 (d) Notwithstanding subdivision (c), wire may be used to hold
20 the escape gap in place that reduces the inside vertical or horizontal
21 measurement of the escape gap specified in subdivision (c), but
22 only if all of the following requirements are met:

23 (1) The overall diameter of the wire, including any coating on
24 the wire, shall measure less than the diameter of 10 gauge wire.

25 (2) A maximum of one wire wrap shall be located on each
26 vertical side of the escape gap.

27 (3) A maximum of two wire wraps shall be located on the
28 bottom horizontal side of the escape gap.

29 (4) Wire shall not be used on the top horizontal side of the
30 escape gap.

31 (5) Each wire shall be tightly wrapped against the inside surface
32 of the escape gap and shall not pass over the inside surface more
33 than once. As used in this paragraph, "tightly wrapped" means no
34 space exists at any point between the wire and the inside surface
35 of the escape gap.

36 (e) A lobster trap constructed of lath or other material shall have
37 an opening to allow a means of escape along the full length of one
38 side of the rearmost chamber. The escape opening shall be of a

- 1 spacing of not less than $2\frac{3}{8}$ inches, and the spacing shall be located
- 2 parallel to, and within $2\frac{3}{8}$ inches of, the floor of the lobster trap.

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